

**EISNER & DICTOR, P.C.**

ATTORNEYS AT LAW

39 BROADWAY, SUITE 1540  
NEW YORK, NEW YORK 10006

TELEPHONE: (212) 473-8700  
FACSIMILE: (212) 473-8705

EUGENE G. EISNER  
BENJAMIN N. DICTOR  
THOMAS J. LAMADRID

E-MAIL: office@eisnerdictor.com  
INTERNET: www.eisnerdictor.com

OF COUNSEL

NATHANIEL K. CHARNY\*  
ROGER J. BERNSTEIN

\*NY AND NJ BAR

December 14, 2018

**VIA ECF**

Hon. James Orenstein  
United States Magistrate Judge  
Eastern District of New York  
225 Cadman Plaza East, Courtroom 11D South  
Brooklyn, New York 11201

Re: Trejo v. K.A.M. Food Store, Inc.  
No. 1:18-cv-03320-DLI-JO

Dear Judge Orenstein:

This office represents plaintiff in the above-referenced matter. Together with counsel for defendants, we submit this joint status report pursuant to Your Honor's Case Management & Scheduling Order and in advance of the Status Conference scheduled for December 18, 2018, at 11:30 a.m. Additionally, the parties submit this joint letter to respectfully request that fact discovery be stayed following defendants' service of their response to plaintiff's first document requests and interrogatories so that the parties may attempt mediation prior to incurring the costs of depositions. Provided the Court deems the parties' request acceptable, the parties' also respectfully propose that the December 18 Status Conference be adjourned or cancelled.

Currently, fact discovery is scheduled to end January 31, 2019. Discovery is proceeding somewhat behind schedule. Defendants served their initial disclosures on September 14, 2018, and plaintiff served his initial disclosures on September 17. On September 24, defendants served plaintiff with their first document requests and interrogatories. Plaintiff served responses to defendants documents demands and interrogatories and produced the responsive documents on October 19. At the same time, plaintiff served his extensive first document requests and interrogatories for each defendant. Defendants' responses to plaintiff's October 19 document requests and interrogatories are still outstanding. Defendants have been gathering time cards and other documentation for the eight (8) year period requested by plaintiff, which has caused the delay in providing discovery responses. Counsel have discussed the outstanding discovery and agreed, with the permission of the court, that defendants will serve their responses and produce the responsive documents by January 2, 2019.

EISNER & DICTOR, P.C.

Hon. James Orenstein  
United States Magistrate Judge

Page | 2

Re: Trejo v. K.A.M. Food Store, Inc.  
No. 1:18-cv-03320-DLI-JO

Following service of defendants' responses and documents, the parties seek to mediate this matter prior to conducting depositions to attempt to avoid incurring those expenses, if possible. An offer has been extended to plaintiff's counsel, which is being discussed with plaintiff.

Accordingly, the parties respectfully request that the Court order defendants to respond to the outstanding discovery by January 2, 2019, stay discovery, and refer the parties to the Court-annexed mediation program. As there are no pending disputes between the parties at this time, should the Court deem the parties' request to stay discovery pending mediation acceptable, the parties further respectfully propose that the status conference scheduled for December 18 be cancelled or adjourned.

This is the first request to adjourn fact discovery, due to close January 31, 2019. Both sides consent to adjournment of these dates. The request would also affect the scheduled time for the pretrial conference (currently scheduled for February 5, 2019, at 10:30 a.m.) and the deadlines to commence dispositive motions and submit the joint pretrial order (April 1 and April 29, respectively).

Thank you for your consideration in this matter.

Respectfully submitted,

Thomas J. Lamadrid

Meredith Castelli  
HAFENIST KRAUT & PERLSTEIN LLP  
*Attorneys for Defendants*  
3000 Marcus Ave., Suite 2E1  
Lake Success, NY 11402  
(516) 355-9677  
mcastelli@hkplaw.com